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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,623	06/26/2003	Keiji Katata	Q76304	4461
23373	7590	11/19/2007	EXAMINER	
SUGHRUE MION, PLLC			TEKLE, DANIEL T	
2100 PENNSYLVANIA AVENUE, N.W.			ART UNIT	
SUITE 800			PAPER NUMBER	
WASHINGTON, DC 20037			2621	
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			11/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/603,623

Applicant(s)

KATATA, KEIJI

Examiner

Daniel Tekle

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-10, 12, 13, 16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10, 12-13, 16 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Argument*

Applicant's arguments filed September 19, 2007 have been fully considered but they are not persuasive.

Applicant argues on page 10 step II of the remark, "Park fails to disclose, or even suggest, at least "a recording position determining device for determining, on the basis of the defect information, whether or not the new data is recorded at the position of the defect, when the new data is recorded into the rewritable recording medium". In addition applicant argues on page 11, Park "excludes defective areas before writing the data when a real time data is provided".

In reply <sup>8</sup> the examiner respectively disagrees. Park et al. discloses an information exchange between the PDL and SDL about the defective area (**column 4 lines 47-59**). Also Park et al teach the skipping of defective block in response to write command (**column 4 lines 60-64**). In addition the reference teaches the writing on the defective block, "the step of writing the data on the defective block as is if a new defective block is encountered during writing the data in response to the write command" (**column 5 lines 3-7**).

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty

defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-3, 5-10, 12-13, 16 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Park et al. (US 6625094 B1)

**Regarding Claim 1:** Park et al. disclose a defect management apparatus for performing a defect management for a rewritable recording medium having a data area and a spare area in its recording surface, the defect management apparatus comprising: a defect information generating device for generating defect information which indicates at least a position of a defect existing on or in the recording surface of the rewritable recording medium, when data recorded in the recording surface of the rewritable recording medium is read (**column 4 lines 32-46**); a recording position determining device for determining, on the basis of the defect information, whether or not the data is recorded at the position of the defect, when the data is recorded into the rewritable recording medium (**column 4 lines 47-59**); an alternative recording device for executing an alternative recording for recording read data which is read at the position of the defect into the spare area of the rewritable recording medium, if the recording position determining device determines that the new data is recorded at the position of the defect (**columns 4-5, lines 64-7**); and a time controlling device for controlling a time point to execute the alternative recording by the alternative recording device such that the alternative recording is executed within a time period that continuation of a state that recording the new data into the rewritable recording medium is not performed is predicted (**column 4 lines 33-46**).

**Regarding Claim 2:** Park et al. disclose a defect management apparatus according to claim 1, wherein the alternative recording device comprises: a recognizing device for recognizing the position of the defect on the basis of the defect information (**column 5 lines 8-27**); a reading device for reading the new data recorded at the position of the defect recognized by the recognizing device (**column 5 lines 8-27**); and a recording device for recording the new data read by the reading device into the spare area of the rewritable recording medium (**column 5 lines 8-27**).

**Regarding Claim 3:** Park et al. disclose a defect management apparatus according to claim 1, wherein the alternative recording device comprises: a recognizing device for recognizing the position of the defect on the basis of the defect information (**column 4 lines 60-63**); an alternative-recording determining device for determining whether or not the new data recorded at the position of the defect is data that requires the alternative recording (**column 4 lines 60-63**); a reading device for reading the new data recorded at the position of the defect recognized by the recognizing device, if the alternative-recording determining device determines that the new data recorded at the position of the defect is the data that requires the alternative recording (**columns 4-5, lines 64-7**); and a recording device for recording the new data read by the reading device into the spare area of the rewritable recording medium (**columns 5-6, lines 59-6**).

**Regarding Claim 5:** Park et al. disclose a defect management apparatus according to claim 1, wherein the time controlling device allows the alternative recording device to execute the alternative recording at a time point that an instruction to stop or suspend the data recording is inputted (**columns 4-5, lines 64-7**).

**Regarding Claim 6:** Park et al. disclose a defect management apparatus according to claim 1, wherein the time controlling device allows the alternative recording device to execute the alternative recording at a time point that the recording of video or audio data to be recorded continuously is complete (**columns 4-5, lines 64-7**).

**Regarding Claims 7-8:** Claims 7-8 are rejected for the same subject matter as claims 1-2 respectively.

**Regarding Claim 9:** Claim 9 is rejected for the same subject matter as claims 1.

**Regarding Claims 10, 12-13:** Claims 10, 12-13 are rejected for the same subject matter as claims 3, 5-6 respectively.

**Regarding Claim 15:** Park et al. disclose a defect management apparatus according to claim 14, wherein the recording position determining device determines the recording position different from the position of the defect, if the data to be recorded is control data or management data (**column 4 lines 60-63**).

**Regarding Claims 16 and 18:** Claims 16 and 18 are rejected for the same subject matter as claims 1.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Tekle whose telephone number is 571-270-1117. The examiner can normally be reached on 7:30am to 5:00pm M-R and 7:30-4:00 Every other F..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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